Ohio | Department of Developmental Disabilities

Core Training Requirements for Certified Providers*

	Certified Independent Provider	Certified Agency Provider Direct Services Staff	Certified Agency Provider Chief Executive Officer (CEO)
Initial	<u>Prior to Application for Certification</u> 8 hours of training in accordance with standards established by the Department in: • Overview of serving individuals with DD including implementation of ISPs • Role and responsibilities of independent provider with regard to services including person-centered planning, community integration, self-determination, and self-advocacy • Universal precautions for infection control • Rights of individuals • Rule 5123:2-17-02 including Health and Welfare Alerts issued by the Department Department-provided web-based orientation for independent providers American Red Cross or equivalent First Aid & CPR <u>After Being Selected and Prior to Providing Services</u> Meet with representative of county board to discuss independent provider's responsibilities and requirements set forth in the ISP <u>Within 60 Days of First Providing Services</u> Training in accordance with standards established by the Department in: • Service documentation • Billing for services	<u>Prior to Providing Direct Services</u> 8 hours of training in accordance with standards established by the Department in: • Overview of serving individuals with DD including implementation of ISPs • Role and responsibilities of direct services staff with regard to services including person-centered planning, community integration, self-determination, and self-advocacy • Universal precautions for infection control • Rights of individuals • Rule 5123:2-17-02 including Health and Welfare Alerts issued by the Department Training specific to each individual s/he will support that includes: • What is important to and for the individual • Individual's support needs including, as applicable, behavioral support strategy, management of individual's funds, and medication administration/delegated nursing American Red Cross or equivalent First Aid & CPR <u>Within 90 Days of Becoming Supervisor</u> Training in accordance with the agency provider's policies and procedures regarding: • Service documentation • Billing for services • Management of individuals' funds	<u>Within 30 Days of Hire as CEO</u> Department-provided web-based orientation for chief executive officers of agency providers <u>Within 60 Days of Hire as CEO</u> Training in accordance with standards established by the Department in: • Service documentation • Billing for services • Internal compliance programs • Rights of individuals • Rule 5123:2-17-02 including Health and Welfare Alerts issued by the Department

* In accordance with rule 5123:2-2-01 of the Administrative Code (projected effective date October 1, 2015). Additional training may be required for the specific Home and Community-Based Services provided.

	Certified Independent Provider	Certified Agency Provider Direct Services Staff	Certified Agency Provider Chief Executive Officer (CEO)
Annually Commencing in Second Year	Training in accordance with standards established by the Department in: • Role and responsibilities of independent provider with regard to services including person-centered planning, community integration, self-determination, and self-advocacy • Rights of individuals • Rule 5123:2-17-02 including Health and Welfare Alerts issued since previous year's training	Training in accordance with standards established by the Department in: • Role and responsibilities of direct services staff with regard to services including person-centered planning, community integration, self-determination, and self-advocacy • Rights of individuals • Rule 5123:2-17-02 including Health and Welfare Alerts issued since previous year's training	Training in accordance with standards established by the Department in: • Role and responsibilities of agency provider with regard to services including person-centered planning, community integration, self-determination, and self-advocacy • Rights of individuals • Rule 5123:2-17-02 including Health and Welfare Alerts issued since previous year's training

* In accordance with rule 5123:2-2-01 of the Administrative Code (projected effective date October 1, 2015). Additional training may be required for the specific Home and Community-Based Services provided.

5123:2-2-01 **Provider certification.**

(A) Purpose

This rule establishes procedures and standards for certification of providers of supported living services including home and community-based services provided in accordance with section 5123.045 of the Revised Code. This rule does not apply to a person or government entity licensed as a residential facility pursuant to section 5123.19 of the Revised Code.

(B) Definitions

(1) "Agency provider" means an entity, including a county board, that directly employs at least one person in addition to the chief executive officer for the purpose of providing services for which the entity must be certified under this rule.

(2) "Applicant" means a person, agency, or county board seeking to become a certified provider.

(3) "County board" means a county board of developmental disabilities.

(4) "Department" means the Ohio department of developmental disabilities.

(5) "Direct services position" has the same meaning as in section 5123.081 of the Revised Code.

(6) "Home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.

(7) "Independent provider" means a self-employed person who provides services for which he or she must be certified under this rule and does not employ, either directly or through contract, anyone else to provide the services.

(8) "Individual" means a person with a developmental disability.

(9) "Provider" means an agency provider or an independent provider.

(10) "Related party" has the same meaning as in section 5123.16 of the Revised Code.

(C) Requirements for independent provider certification

(1) An independent provider shall:

(a) Be at least eighteen years of age.

(b) Have a valid social security number and one of the following forms of

identification:

(i) State of Ohio identification;

(ii) Valid driver's license; or

(iii) Other government-issued photo identification.

(c) Hold a high school diploma or general education development certificate, except for:

(i) Persons who, on September 30, 2009, held independent provider certification issued by the department; and

(ii) Persons who, on September 30, 2009, were employed by or under contract with an agency provider certified by the department.

(d) Be able to read, write, and understand English at a level sufficient to comply with all requirements set forth in administrative rules governing the services provided.

(e) Hold valid "American Red Cross" or equivalent certification in first aid which includes an in-person skills assessment completed with an approved trainer, except for providers of services exempted in accordance with paragraph (E)(1) of this rule.

(f) Hold valid "American Red Cross" or equivalent certification in cardiopulmonary resuscitation which includes an in-person skills assessment completed with an approved trainer, except for providers of services exempted in accordance with paragraph (E)(1) of this rule.

(g) Disclose or report in writing to the department within fourteen days if he or she is or becomes a related party of a person or government entity for which the department refused to issue or renew or revoked a supported living certificate pursuant to section 5123.166 of the Revised Code.

(h) Disclose or report in writing to the department if he or she has been or is ever formally charged with, convicted of, or pleads guilty to any of the offenses listed or described in divisions (A)(3)(a) to (A)(3)(e) of section 109.572 of the Revised Code within fourteen days after the date of such charge, conviction, or guilty plea.

(i) Undergo a background investigation in accordance with rule 5123:2-2-02 of the Administrative Code and consent to be enrolled in the Ohio attorney general's retained applicant fingerprint database ("Rapback").

(j) Provide and maintain on file with the department, current United States

mail and electronic mail addresses.

(k) Meet with a representative of the county board after being selected to provide services to an individual and prior to providing services, to discuss the independent provider's responsibilities and requirements set forth in the individual service plan.

(l) Participate as requested by the department in service delivery system data collection initiatives.

(m) Comply with the requirements of this rule and other standards and assurances established under Chapter 5123. of the Revised Code and rules in Chapter 5123:2-9 of the Administrative Code for the specific home and community-based services provided.

(2) Prior to application for initial independent provider certification, an applicant shall have successfully completed:

(a) Department-provided web-based orientation for independent providers.

(b) Eight hours of training in accordance with standards established by the department that addresses the following topics, except for providers of services exempted in accordance with paragraph (E)(1) of this rule:

(i) Overview of serving individuals with developmental disabilities including implementation of individual service plans;

(ii) An independent provider's role and responsibilities with regard to services including person-centered planning, community integration, self-determination, and self-advocacy;

(iii) Universal precautions for infection control including hand washing and the disposal of bodily waste;

(iv) The rights of individuals set forth in sections 5123.62 to 5123.64 of the Revised Code; and

(v) The requirements of rule 5123:2-17-02 of the Administrative Code including a review of health and welfare alerts issued by the department.

(3) Within sixty days of first providing services, an independent provider shall successfully complete training in accordance with standards established by the department in:

(a) Service documentation; and

(b) Billing for services.

(4) Commencing in the second year of certification, an independent provider shall successfully complete annual training in accordance with standards established by the department in:

(a) An independent provider's role and responsibilities with regard to services including person-centered planning, community integration, self-determination, and self-advocacy;

(b) The rights of individuals set forth in sections 5123.62 to 5123.64 of the Revised Code; and

(c) The requirements of rule 5123:2-17-02 of the Administrative Code including a review of health and welfare alerts issued by the department since the previous year's training.

(D) Requirements for agency provider certification

(1) An agency provider shall employ a chief executive officer who:

(a) Is at least twenty-one years of age.

(b) Has a valid social security number and one of the following forms of identification:

(i) State of Ohio identification;

(ii) Valid driver's license; or

(iii) Other government-issued photo identification.

(c) Holds a high school diploma or general education development certificate.

(d) Either:

(i) Holds a bachelor's degree from an accredited college or university; or

(ii) Has at least four years of full-time (or equivalent part-time) paid work experience as a supervisor of programs or services for individuals with developmental disabilities.

(e) Is able to read, write, and understand English at a level sufficient to comply with all requirements set forth in administrative rules governing the services provided.

(f) Has at least one year of full-time (or equivalent part-time) paid work experience in the provision of services for individuals with developmental disabilities which included responsibility for:

(i) Personnel matters;

(ii) Supervision of employees;

(iii) Program services; and

(iv) Financial management.

(g) Except for a person who, on the day immediately prior to the effective date of this rule, was employed by or under contract with an agency provider as the chief executive officer, successfully completes, within thirty days of initial certification or within thirty days of hire as the chief executive officer, department-provided web-based orientation for chief executive officers of agency providers.

(h) Except for a person who, on the day immediately prior to the effective date of this rule, was employed by or under contract with an agency provider as the chief executive officer, successfully completes, within sixty days of initial certification or within sixty days of hire as the chief executive officer, training in accordance with standards established by the department in:

(i) Service documentation;

(ii) Billing for services;

(iii) Internal compliance programs;

(iv) The rights of individuals set forth in sections 5123.62 to 5123.64 of the Revised Code; and

(v) The requirements of rule 5123:2-17-02 of the Administrative Code including a review of health and welfare alerts issued by the department.

(i) Successfully completes, commencing in the second year of certification or employment as the chief executive officer, annual training in accordance with standards established by the department in:

(i) An agency provider's role and responsibilities with regard to services including person-centered planning, community integration, self-determination, and self-advocacy;

(ii) The rights of individuals set forth in sections 5123.62 to 5123.64 of the Revised Code; and

(iii) The requirements of rule 5123:2-17-02 of the Administrative Code including a review of health and welfare alerts issued by the department since the previous year's training.

(j) Undergoes a background investigation in accordance with rule 5123:2-2-02 of the Administrative Code and consents to be enrolled in the Ohio attorney general's retained applicant fingerprint database ("Rapback").

(2) The chief executive officer or another person designated in writing by the chief executive officer to be responsible for administration of the agency provider shall be directly and actively involved in day-to-day operation of the agency provider and oversee provision of services by the agency provider. When the chief executive officer designates another person to be responsible for administration of the agency provider in accordance with this paragraph, both the chief executive officer and the designated person shall meet the requirements set forth in paragraph (D)(1) of this rule. The agency provider shall report in writing to the department within fourteen days when the chief executive officer designates another person to be responsible for administration of the agency provider.

(3) An agency provider shall disclose or report in writing to the department if the chief executive officer or other person responsible for administration of the agency provider has been or is ever formally charged with, convicted of, or pleads guilty to any of the offenses listed or described in divisions (A)(3)(a) to (A)(3)(e) of section 109.572 of the Revised Code within fourteen days after the date of such charge, conviction, or guilty plea.

(4) An agency provider shall disclose or report in writing to the department within fourteen days if the chief executive officer or other person responsible for administration of the agency provider is or becomes a related party of a person or government entity for which the department refused to issue or renew or revoked a supported living certificate pursuant to section 5123.166 of the Revised Code.

(5) An agency provider shall report in writing to the department within fourteen days when the chief executive officer or other person responsible for administration of the agency provider leaves the agency provider's employ. The notification shall indicate when the agency provider anticipates filling the position and to whom executive authority has been delegated in the interim.

(6) An agency provider shall provide to the department the name, country of birth, date of birth, and social security number for any person owning a financial

interest of five per cent or more in the agency provider (including a direct, indirect, security, or mortgage financial interest).

(7) An agency provider shall comply with the requirements of this rule and other standards and assurances established under Chapter 5123. of the Revised Code and rules in Chapter 5123:2-9 of the Administrative Code for the specific home and community-based services provided.

(8) An applicant for initial agency provider certification shall submit to the department:

(a) Written policies and procedures that address the agency provider's management practices in the following areas:

(i) Person-centered planning and self-determination;

(ii) Confidentiality of individuals' records;

(iii) Management of individuals' funds;

(iv) Incident reporting and investigation;

(v) Individuals' satisfaction with services delivered;

(vi) Internal monitoring and evaluation procedures to improve services delivered;

(vii) Supervision of staff;

(viii) Staff training plan; and

(ix) Annual written notice to each of its employees and contractors explaining the conduct for which the employee or contractor or the contractor's employees may be placed on the abuser registry and setting forth the requirement for each employee, contractor, and employee of a contractor who is engaged in a direct services position to report in writing to the agency provider, if he or she is every formally charged with, convicted of, or pleads guilty to any of the offenses listed or described in divisions (A)(3)(a) to (A)(3)(e) of section 109.572 of the Revised Code within fourteen days after the date of such charge, conviction, or guilty plea.

(b) A certificate of good standing from the Ohio secretary of state demonstrating the agency provider's status as a for-profit corporation, nonprofit corporation, limited liability company, or limited liability partnership.

(c) An employer identification number from the internal revenue service.

(d) An employer identification number from the bureau of workers' compensation.

(e) A certificate of comprehensive general liability insurance in the amount of at least five hundred thousand dollars.

(9) An agency provider shall provide and maintain on file with the department, current United States mail and electronic mail addresses.

(10) An agency provider shall demonstrate that it has an established internal system to ensure compliance with requirements for:

(a) Provider certification in accordance with this rule;

(b) Background investigations and appropriate actions in accordance with rule 5123:2-2-02 of the Administrative Code for its chief executive officer, other person responsible for administration of the agency provider (if applicable), and each employee, contractor, and employee of a contractor who is engaged in a direct services position; and

(c) Service delivery, service documentation, and billing for services in accordance with rules in Chapter 5123:2-9 of the Administrative Code for the specific home and community-based services provided.

(11) An agency provider shall maintain comprehensive general liability insurance in the amount of at least five hundred thousand dollars.

(12) An agency provider shall comply with all applicable federal, state, and local regulations, statutes, rules, codes, and ordinances pertaining to employment of staff including, but not limited to, wage and hour, workers' compensation, unemployment compensation, and withholding taxes.

(13) An agency provider shall be current in payment of payroll taxes, workers' compensation premiums, and unemployment compensation premiums.

(14) An agency provider shall conduct background investigations and take appropriate actions in accordance with rule 5123:2-2-02 of the Administrative Code for its chief executive officer, other person responsible for administration of the agency provider (if applicable), and each employee, contractor, and employee of a contractor who is engaged in a direct services position.

(15) An agency provider shall enroll each employee, contractor, and employee of a contractor who is engaged in a direct services position in the Ohio attorney

general's retained applicant fingerprint database ("Rapback").

(a) An employee, contractor, and employee of a contractor who is engaged in a direct services position employed by or under contract with the agency provider on the day immediately prior to the effective date of this rule shall be enrolled in "Rapback" at the point he or she is next subject to a criminal records check by the bureau of criminal identification and investigation in accordance with rule 5123:2-2-02 of the Administrative Code.

(b) An employee, contractor, and employee of a contractor who is engaged in a direct services position hired or engaged by the agency provider on or after the effective date of this rule shall be enrolled in "Rapback" at the point of his or her initial criminal records check by the bureau of criminal identification and investigation in accordance with rule 5123:2-2-02 of the Administrative Code.

(16) An agency provider shall participate as requested by the department in service delivery system data collection initiatives such as the national core indicators staff stability survey.

(17) An agency provider shall ensure that each employee, contractor, and employee of a contractor engaged in a direct services position:

(a) Is at least eighteen years of age.

(b) Has a valid social security number and one of the following forms of identification:

(i) State of Ohio identification;

(ii) Valid driver's license; or

(iii) Other government-issued photo identification.

(c) Holds a high school diploma or general education development certificate, except for:

(i) Persons who, on September 30, 2009, held independent provider certification issued by the department; and

(ii) Persons who, on September 30, 2009, were employed by or under contract with an agency provider certified by the department.

(d) Is able to read, write, and understand English at a level sufficient to comply with all requirements set forth in administrative rules governing the services provided.

(e) Holds valid "American Red Cross" or equivalent certification in first aid which includes an in-person skills assessment completed with an approved trainer, except for employees, contractors, and employees of contractors engaged in provision of services exempted in accordance with paragraph (E)(1) or (E)(2) of this rule.

(f) Holds valid "American Red Cross" or equivalent certification in cardiopulmonary resuscitation which includes an in-person skills assessment completed with an approved trainer, except for employees, contractors, and employees of contractors engaged in provision of services exempted in accordance with paragraph (E)(1) or (E)(2) of this rule.

(g) Successfully completes, prior to providing direct services, eight hours of training in accordance with standards established by the department that addresses the following topics, except for employees, contractors, and employees of contractors engaged in provision of services exempted in accordance with paragraph (E)(1) of this rule:

(i) Overview of serving individuals with developmental disabilities including implementation of individual service plans;

(ii) The role and responsibilities of direct services staff with regard to services including person-centered planning, community integration, self-determination, and self-advocacy;

(iii) Universal precautions for infection control including hand washing and the disposal of bodily waste;

(iv) The rights of individuals set forth in sections 5123.62 to 5123.64 of the Revised Code; and

(v) The requirements of rule 5123:2-17-02 of the Administrative Code including a review of health and welfare alerts issued by the department.

(h) Successfully completes, prior to providing direct services, training specific to each individual he or she will support that includes:

(i) What is important to the individual and what is important for the individual; and

(ii) The individual's support needs including, as applicable, behavioral support strategy, management of the individual's funds, and medication administration/delegated nursing.

(i) If he or she supervises staff in direct services positions, successfully completes within ninety days of becoming a supervisor, training in accordance with the agency provider's policies and procedures regarding:

(i) Service documentation;

(ii) Billing for services; and

(iii) Management of individuals' funds.

(j) Successfully completes, commencing in the second year of employment or contract, annual training in accordance with standards established by the department in:

(i) The role and responsibilities of direct services staff with regard to services including person-centered planning, community integration, self-determination, and self-advocacy;

(ii) The rights of individuals set forth in sections 5123.62 to 5123.64 of the Revised Code; and

(iii) The requirements of rule 5123:2-17-02 of the Administrative Code including a review of health and welfare alerts issued by the department since the previous year's training.

(E) Exemptions from some requirements for providers of some home and community-based services

(1) Independent providers and the employees, contractors, and employees of contractors of agency providers of the following home and community-based services are exempt from the requirements to hold first aid certification set forth, as applicable, in paragraph (C)(1)(e) or (D)(17)(e) of this rule; to hold cardiopulmonary resuscitation certification set forth, as applicable, in paragraph (C)(1)(f) or (D)(17)(f) of this rule; and to complete eight hours of training set forth, as applicable, in paragraph (C)(2)(b) or (D)(17)(g) of this rule except that each independent provider and each employee, contractor, and employee of a contractor who is engaged in a direct services position shall complete training in the requirements of rule 5123:2-17-02 of the Administrative Code:

(a) Clinical/therapeutic intervention in accordance with rule 5123:2-9-41 of the Administrative Code;

(b) Community inclusion-transportation provided by operators of commercial vehicles in accordance with rule 5123:2-9-42 of the Administrative

Code, except when the operators of commercial vehicles are under contract with a county board to provide community inclusion-transportation, in which case the operators of commercial vehicles shall not be exempt;

(c) Environmental accessibility adaptations in accordance with rule 5123:2-9-23 of the Administrative Code;

(d) Functional behavioral assessment in accordance with rule 5123:2-9-43 of the Administrative Code;

(e) Home-delivered meals in accordance with rule 5123:2-9-29 of the Administrative Code;

(f) Informal respite only when the provider provides informal respite solely to his or her own family member in accordance with rule 5123:2-9-21 of the Administrative Code;

(g) Integrated employment only when provided by an independent provider who is the individual's coworker or otherwise employed at the work site in accordance with rule 5123:2-9-44 of the Administrative Code;

(h) Interpreter services in accordance with rule 5123:2-9-36 of the Administrative Code;

(i) Non-medical transportation provided by operators of commercial vehicles in accordance with rule 5123:2-9-18 of the Administrative Code, except when the operators of commercial vehicles are under contract with a county board to provide non-medical transportation, in which case the operators of commercial vehicles shall not be exempt;

(j) Nutrition services in accordance with rule 5123:2-9-28 of the Administrative Code;

(k) Participant/family stability assistance in accordance with rule 5123:2-9-46 of the Administrative Code;

(l) Personal emergency response systems in accordance with rule 5123:2-9-26 of the Administrative Code;

(m) Remote monitoring equipment in accordance with rule 5123:2-9-35 of the Administrative Code;

(n) Social work in accordance with rule 5123:2-9-38 of the Administrative Code;

(o) Specialized medical equipment and supplies in accordance with rule

5123:2-9-25 of the Administrative Code;

(p) Support brokerage in accordance with rule 5123:2-9-47 of the Administrative Code; and

(q) Transportation provided by operators of commercial vehicles in accordance with rule 5123:2-9-24 of the Administrative Code, except when the operators of commercial vehicles are under contract with a county board to provide transportation, in which case the operators of commercial vehicles shall not be exempt.

(2) Employees, contractors, and employees of contractors of agency providers of remote monitoring in accordance with rule 5123:2-9-35 of the Administrative Code are exempt from the requirements to hold first aid certification set forth in paragraph (D)(17)(e) of this rule and to hold cardiopulmonary resuscitation certification set forth in paragraph (D)(17)(f) of this rule.

(F) Standards of service provision

(1) An independent provider and the chief executive officer, person responsible for administration, employees, contractors, and employees of contractors of an agency provider shall:

(a) Provide services only to individuals whose needs he or she can meet.

(b) Provide services in a person-centered manner.

(c) Be able to effectively communicate with each individual receiving services.

(d) Be knowledgeable in the individual service plan for each individual served prior to providing services to the individual.

(e) Implement services in accordance with the individual service plan.

(f) Take all reasonable steps necessary to prevent the occurrence or recurrence of incidents adversely affecting health and safety of individuals served.

(g) Comply with the requirements of rule 5123:2-2-06 of the Administrative Code.

(h) Arrange for substitute coverage, if necessary, only from a provider certified or approved by the department and as identified in the individual service plan; notify the individual or legally responsible persons in the event that substitute coverage is necessary; and notify the person identified in the individual service plan when substitute

coverage is not available to allow such person to make other arrangements.

(i) Notify, in writing, the individual or the individual's guardian and the individual's service and support administrator in the event that the provider intends to cease providing services to the individual no less than thirty days prior to termination of services. If, however, an independent provider intends to cease providing services to an individual because the health or safety of the independent provider is at serious and immediate risk, the provider shall immediately notify the county board by calling the county board's twenty-four hour emergency telephone number; once the board has been notified, the independent provider may cease providing services.

(2) An independent provider and the chief executive officer, person responsible for administration, employees, contractors, and employees of contractors of an agency provider shall not:

(a) Provide services to his or her minor (under age eighteen) child or his or her spouse;

(b) Engage in sexual conduct or have sexual contact with an individual for whom he or she is providing care;

(c) Administer any medication to or perform health care tasks for individuals who receive services unless he or she meets the applicable requirements of Chapters 4723., 5123., and 5126. of the Revised Code and rules adopted under those chapters; or

(d) Use or be under the influence of the following while providing services:

(i) Alcohol;

(ii) Illegal drugs;

(iii) Illegal chemical substances; or

(iv) Controlled substances that may adversely affect his or her ability to furnish services.

(G) Procedure for obtaining initial certification

(1) The applicant shall submit an application to the department, via the department's website (http://dodd.ohio.gov/providers/certificationlicensure/pages/default.aspx), for supported living services and the home and community-based services the applicant seeks to deliver in accordance with procedures prescribed by the department.

(2) The applicant shall submit supporting documentation as evidence that standards are met as required by this rule and service-specific standards established under Chapter 5123. of the Revised Code and Chapter 5123:2-9 of the Administrative Code.

(3) An application is considered complete when the department has received from the applicant all completed components of the application, including applicable signatures and supporting documentation that demonstrates compliance with the certification standards for the services the applicant is seeking to deliver, and the application fee specified in paragraph (L) of this rule.

(4) When the application is complete, the department shall review the application and notify the applicant by electronic mail of its decision to approve or deny certification within thirty days of receipt of the complete application. The notification shall specify the effective date and expiration date of the certification and the specific services for which the applicant is approved. When the department approves certification for an applicant seeking to deliver home and community-based services, the department shall initiate the process for the applicant to obtain a medicaid provider number from the Ohio department of medicaid; the department shall notify the certified provider by electronic mail within ten days of receipt of the medicaid provider number.

(5) When the application is incomplete, the department shall, within thirty days of receipt of the application, notify the applicant by electronic mail that the application is deficient and advise that the applicant has thirty days to submit components needed to complete the application.

(a) When components are received by the department within the specified thirty days that result in a complete application, the department shall review the application and notify the applicant by electronic mail of its decision to approve or deny the certification within thirty days of receipt of the complete application. The notification shall specify the effective date and expiration date of the certification and the specific services for which the applicant is approved. When the department approves certification for an applicant seeking to deliver home and community-based services, the department shall initiate the process for the applicant to obtain a medicaid provider number from the Ohio department of medicaid; the department shall notify the certified provider by electronic mail within ten days of receipt of the medicaid provider number.

(b) If after thirty days, the applicant fails to submit components that result in a complete application, the department shall take no further action with respect to the application.

(H) Procedure for obtaining certification to provide additional home and community-based services during the term of existing department-issued certification

(1) A department-certified provider seeking to deliver additional home and community-based services shall submit an application to the department via the department's website (http://dodd.ohio.gov/providers/certification licensure/pages/default.aspx).

(2) The applicant shall submit supporting documentation as evidence that standards are met as required by this rule and service-specific standards established under Chapter 5123. of the Revised Code and Chapter 5123:2-9 of the Administrative Code.

(3) An application is considered complete when the department has received from the applicant all completed components of the application, including applicable signatures and supporting documentation that demonstrates compliance with the certification standards for the services the applicant is seeking to deliver, and the application fee specified in paragraph (L) of this rule.

(4) When the application is complete, the department shall review the application and notify the applicant by electronic mail of its decision to approve or deny certification within thirty days of receipt of the complete application. The notification shall specify the effective date and expiration date of the certification and the specific services for which the applicant is approved.

(5) When the application is incomplete, the department shall, within thirty days of receipt of the application, notify the applicant by electronic mail that the application is deficient and advise that the applicant has thirty days to submit components needed to complete the application.

(a) When components are received by the department within the specified thirty days that result in a complete application, the department shall review the application and notify the applicant by electronic mail of its decision to approve or deny the additional certification within thirty days of receipt of the complete application. The notification shall specify the effective date and expiration date of the certification and the specific services for which the applicant is approved.

(b) If after thirty days, the applicant fails to submit components that result in a complete application, the department shall take no further action with respect to the application.

(I) Procedure for obtaining renewal certification

(1) The department shall notify providers by electronic mail to the address on file of required certification renewal no later than ninety days prior to the date the provider's certification expires. The notification shall include the procedures for submitting the certification renewal application and application fee in accordance with this rule.

(2) The provider shall submit, via the department's website (http://dodd.ohio.gov/providers/certificationlicensure/pages/default.aspx), the certification renewal application with supporting documentation as evidence that standards are met as required by this rule and service-specific standards established under Chapter 5123. of the Revised Code and Chapter 5123:2-9 of the Administrative Code.

(3) An application is considered complete when the department has received from the applicant all completed components of the application, including applicable signatures and supporting documentation that demonstrates compliance with the certification standards for the services the applicant is seeking to deliver, and the application fee specified in paragraph (L) of this rule.

(4) When the application is complete, the department shall review the application and notify the applicant by electronic mail of its decision to approve or deny certification within thirty days of receipt of the complete application. The notification shall specify the effective date and expiration date of the certification and the specific services for which the applicant is approved.

(5) When the application is incomplete, the department shall, within thirty days of receipt of the application, notify the applicant by electronic mail that the application is deficient and advise that the applicant has thirty days to submit components needed to complete the application.

(a) When components are received by the department within the specified thirty days that result in a complete application, the department shall review the application and notify the applicant by electronic mail of its decision to approve or deny the renewal certification within thirty days of receipt of the complete application. The notification shall specify the effective date and expiration date of the certification and the specific services for which the applicant is approved.

(b) If after thirty days, the applicant fails to submit components that result in a complete application, the department shall take no further action with respect to the application.

(6) A provider's failure to submit a complete certification renewal application at least thirty days in advance of certification expiration may result in a lapse of certification during which the provider shall not provide nor be reimbursed

for provision of services.

(7) A provider's failure to submit a complete certification renewal application prior to certification expiration shall result in a lapse of certification from the date of certification expiration to the date a complete certification renewal application is received by the department during which the provider shall not provide nor be reimbursed for provision of services.

(8) A provider shall not provide services nor submit claims for reimbursement for services delivered subsequent to expiration of the provider's certification.

(J) Application for certification subsequent to expiration

(1) An applicant whose certification has been expired for less than one year shall be required to apply for and meet the requirements for renewal certification.

(2) An applicant whose certification has been expired for one year or more shall be required to apply for and meet the requirements for initial certification.

(K) Certification terms

(1) Initial certification shall be issued for a term of three years.

(2) Renewal certification shall be issued for a term of three years.

(3) Certification to provide additional home and community-based services shall be issued for the remainder of the term of the applicant's existing initial certification or renewal certification.

(L) Application fees

(1) Applicants seeking certification to provide the following home and community-based services shall not be subject to an application fee:

(a) Clinical/therapeutic intervention in accordance with rule 5123:2-9-41 of the Administrative Code;

(b) Community inclusion-transportation provided by operators of commercial vehicles in accordance with rule 5123:2-9-42 of the Administrative Code;

(c) Environmental accessibility adaptations in accordance with rule 5123:2-9-23 of the Administrative Code;

(d) Functional behavioral assessment in accordance with rule 5123:2-9-43 of the Administrative Code;

(e) Home-delivered meals in accordance with rule 5123:2-9-29 of the Administrative Code;

(f) Informal respite only when the provider provides informal respite solely to his or her own family member in accordance with rule 5123:2-9-21 of the Administrative Code;

(g) Integrated employment only when provided by an independent provider who is the individual's coworker or otherwise employed at the work site in accordance with rule 5123:2-9-44 of the Administrative Code;

(h) Interpreter services in accordance with rule 5123:2-9-36 of the Administrative Code;

(i) Non-medical transportation provided by operators of commercial vehicles in accordance with rule 5123:2-9-18 of the Administrative Code;

(j) Nutrition services in accordance with rule 5123:2-9-28 of the Administrative Code;

(k) Participant/family stability assistance in accordance with rule 5123:2-9-46 of the Administrative Code;

(l) Personal emergency response systems in accordance with rule 5123:2-9-26 of the Administrative Code;

(m) Remote monitoring equipment in accordance with rule 5123:2-9-35 of the Administrative Code;

(n) Social work in accordance with rule 5123:2-9-38 of the Administrative Code;

(o) Specialized medical equipment and supplies in accordance with rule 5123:2-9-25 of the Administrative Code;

(p) Support brokerage in accordance with rule 5123:2-9-47 of the Administrative Code; and

(q) Transportation provided by operators of commercial vehicles in accordance with rule 5123:2-9-24 of the Administrative Code.

(2) Applicants seeking certification to provide services other than those specified in paragraph (L)(1) of this rule shall submit an application fee at the time of application for initial certification, application for certification to provide additional home and community-based services during the term of existing department-issued certification, and application to renew certification.

(a) Application fees for initial certification and renewal certification

(i) The application fee for an independent provider seeking initial certification or renewal certification shall be one hundred twenty-five dollars.

(ii) The application fee for a small agency provider (i.e., one that serves or plans to serve fifty or fewer individuals) seeking initial certification or renewal certification shall be eight hundred dollars.

(iii) The application fee for a large agency provider (i.e., one that serves or plans to serve fifty-one or more individuals) seeking initial certification or renewal certification shall be one thousand six hundred dollars.

(b) Application fees for certification to provide additional home and community-based services during the term of existing certification

(i) The application fee for an independent provider seeking certification to provide additional home and community-based services shall be twenty-five dollars.

(ii) The application fee for a small agency provider (i.e., one that serves or plans to serve fifty or fewer individuals) seeking certification to provide additional home and community-based services shall be seventy-five dollars.

(iii) The application fee for a large agency provider (i.e., one that serves or plans to serve fifty-one or more individuals) seeking certification to provide additional home and community-based services shall be one hundred fifty dollars.

(3) Applicants shall pay application fees by electronic funds transfer via the department's website (http://dodd.ohio.gov/providers/certificationlicensure/pages/default.aspx).

(4) Application fees are non-refundable.

(M) Denial, suspension, or revocation of certification

(1) The department may deny an application for certification based on the applicant's failure to comply with the requirements of this rule or other standards and assurances established under Chapter 5123. of the Revised Code and Chapter 5123:2-9 of the Administrative Code for the specific home and community-based services the applicant is seeking to deliver.

(2) Certified providers shall comply with the continuing certification standards set forth in this rule. Certified providers shall be subject to monitoring and compliance reviews as set forth in rules promulgated by the department. Failure to comply with the requirements set forth in this rule or other standards and assurances established under Chapter 5123. of the Revised Code and Chapter 5123:2-9 of the Administrative Code for the specific home and community-based services provided may result in corrective action by the department, up to and including suspension, denial of renewal, or revocation of certification.

(3) The department may deny, suspend, or revoke a provider's certification for good cause, including the following:

(a) Misfeasance;

(b) Malfeasance;

(c) Nonfeasance;

(d) Substantiated abuse or neglect;

(e) Financial irresponsibility;

(f) Failure to meet the requirements of this rule;

(g) Other conduct the department determines is injurious to individuals being served;

(h) Failure to comply with other applicable rules;

(i) Failure to submit claims for reimbursement for twelve consecutive months; or

(j) The conviction or guilty plea of the independent provider or the chief executive officer or other person responsible for administration of the agency provider to any of the offenses listed or described in divisions (A)(3)(a) to (A)(3)(e) of section 109.572 of the Revised Code.

(4) When denying, suspending, or revoking certification under this rule, the department shall comply with the notice and hearing requirements of Chapter 119. of the Revised Code and section 5123.166 of the Revised Code.

(5) When the department denies a renewal of certification, the provider shall comply with the department's adjudication order within thirty days of the date of the mailing of the order.

(N) Department's authority to waive provisions of this rule

(1) When requested in writing with sufficient justification that demonstrates that the health and safety of individuals will not be adversely affected, the department may grant written, time-limited permission to applicants and certified providers to waive specific provisions of this rule.

(2) The department's decision regarding the request to have a provision of this rule waived shall not be subject to appeal.

(O) Home and community-based services

Home and community-based services shall not be subject to sections 5126.40 to 5126.47 of the Revised Code.

Replaces:	5123:2-2-01
Effective:	10/01/2015
Five Year Review (FYR) Dates:	10/01/2020

CERTIFIED ELECTRONICALLY

Certification

08/31/2015

Date

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5123:2-9-06 **Home and community-based services waivers - documentation and payment for services under the individual options and level one waivers.**

(A) Purpose

This rule establishes standards governing documentation and payment for home and community-based services under the individual options waiver and level one waiver components of the medicaid program that the Ohio department of developmental disabilities administers pursuant to section 5166.21 of the Revised Code.

(B) Definitions

(1) "Agency provider" means an entity that ~~employs persons~~ directly employs at least one person in addition to the chief executive officer for the purpose of providing services for which the entity must be certified ~~under rules adopted by the department~~ in accordance with rule 5123:2-2-01 of the Administrative Code.

(2) "Cost projection and payment authorization" means the process followed and the form used by county boards (including the payment authorization for waiver services) to communicate the frequency, duration, scope, and amount of payment requested for each home and community-based service that is identified in the individual service plan.

(3) "Cost projection tool" means the web-based analytical tool, developed and administered by the department, used to project the cost of home and community-based services identified in the individual service plans of individuals enrolled in individual options and level one waivers. The department shall publish any changes to the cost projection tool thirty calendar days prior to implementation.

(4) "County board" means a county board of developmental disabilities.

(5) "Department" means the Ohio department of developmental disabilities.

(6) "Fifteen-minute billing unit" means a billing unit that equals fifteen minutes of service delivery time or is greater or equal to eight minutes and less than or equal to twenty-two minutes of service delivery time.

(7) "Funding range" means one of the dollar ranges contained in appendix A to this rule to which individuals enrolled in the individual options waiver have been assigned for the purpose of funding services other than adult day support,

career planning, group employment support, individual employment support, non-medical transportation, ~~supported employment-community, supported employment-enclave, and~~ vocational habilitation, and waiver nursing services. The funding range applicable to an individual is determined by the score derived from the Ohio developmental disabilities profile that has been completed by a county board employee qualified to administer the tool.

(8) "Guardian" means a guardian appointed by the probate court under Chapter 2111. of the Revised Code. If the individual is a minor, "guardian" means the individual's parents. If no guardian has been appointed for a minor under Chapter 2111. of the Revised Code and the minor is in the legal or permanent custody of a government agency or person other than the minor's natural or adoptive parents, "guardian" means that government agency or person. "Guardian" includes an agency under contract with the department for the provision of protective service in accordance with sections 5123.55 to 5123.59 of the Revised Code.

(9) "Home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.

(10) "Independent provider" means a self-employed person who provides services for which he or she must be certified ~~under~~ in accordance with rule 5123:2-2-01 of the Administrative Code and does not employ, either directly or through contract, anyone else to provide the services.

(11) "Individual" means a person with a developmental disability or for purposes of giving, refusing to give, or withdrawing consent for services, his or her guardian in accordance with section 5126.043 of the Revised Code or other person authorized to give consent.

(12) "Individual funding level" means the total funds, calculated on a twelve-month basis, that result from applying the payment rates in service-specific rules in Chapter 5123:2-9 of the Administrative Code to the units of all waiver services other than adult day support, career planning, group employment support, individual employment support, non-medical transportation, ~~supported employment-community, supported employment-enclave, and~~ vocational habilitation, and waiver nursing services established by the individual service plan development process to be sufficient in frequency, duration, and scope to meet the health and welfare needs of an individual enrolled in the individual options waiver. Unless prior authorization has been obtained in accordance with rule 5123:2-9-07 of the Administrative Code, the individual funding level for services paid in accordance with this rule shall be within or below the funding range assigned to the individual as the result of administration of the Ohio developmental disabilities profile.

(13) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual developed in accordance with rule 5123:2-1-11 of the Administrative Code.

(14) "Natural supports" means the personal associations and relationships typically developed in the community that enhance the quality of life for individuals. Natural supports may include family members, friends, neighbors, and others in the community or organizations that serve the general public who provide voluntary support to help an individual achieve agreed upon outcomes through the individual service plan development process.

(15) "Ohio developmental disabilities profile" means the standardized instrument used by the department to assess the relative needs and circumstances of an individual enrolled in the individual options waiver compared to others. The individual's responses are scored and the individual is linked to a funding range, which enables similarly situated individuals to access comparable waiver services paid in accordance with rules adopted by the department.

(16) "Prior authorization" means the process to be followed in accordance with rule 5123:2-9-07 of the Administrative Code to authorize an individual funding level for an individual enrolled in the individual options waiver that exceeds the maximum value of the funding range.

(17) "Provider" means an agency provider or independent provider that:

(a) Is certified by the department to provide home and community-based services; and

(b) Has a medicaid provider agreement with the Ohio department of medicaid.

(18) "Service and support administrator" means a person, regardless of title, employed by or under contract with a county board to perform the functions of service and support administration and who holds the appropriate certification in accordance with rule 5123:2-5-02 of the Administrative Code.

(19) "Service documentation" means all records and information on one or more documents, including documents that may be created or maintained in electronic software programs, created and maintained contemporaneously with the delivery of services, and kept in a manner as to fully disclose the nature and extent of services delivered that shall include the items delineated in service-specific rules in Chapter 5123:2-9 of the Administrative Code to

validate payment for medicaid services.

(20) "Team" has the same meaning as in rule 5123:2-1-11 of the Administrative Code.

(21) "Three-year period" means the three-year period beginning with the individual's initial enrollment date and ending three years later. Subsequent three-year periods begin with the ending date of the previous three-year period and end three years later.

(22) "Waiver eligibility span" means the twelve-month period following either an individual's initial enrollment date or a subsequent eligibility re-determination date.

(C) Funding ranges and individual funding levels for individuals enrolled in the individual options waiver

(1) Individuals enrolled in the individual options waiver shall be assigned to a funding range based on completion and scoring of the Ohio developmental disabilities profile and the cost-of-doing-business category that applies to the county in which the individual receives the preponderance of services. The funding ranges are contained in appendix A to this rule. The cost-of-doing-business categories are contained in appendix B to this rule.

(2) The funding ranges shall consider:

(a) The natural supports available to the individual;

(b) The individual's living arrangement;

(c) The individual's behavioral support and medical assistance needs;

(d) The individual's mobility;

(e) The individual's ability for self care; and

(f) Any other variable that significantly impacts the individual's needs as determined by the department through statistical analysis.

(3) The service and support administrator shall ensure that an Ohio developmental disabilities profile is completed with input from the individual and the team.

The service and support administrator shall inform the individual, and the team with consent of the individual, of the assigned funding range at the time of enrollment and any time the Ohio developmental disabilities profile is reviewed or updated. The service and support administrator shall ensure the individual, and the team with consent of the individual, have access to review the Ohio developmental disabilities profile and other assessments used in relation to completion of the Ohio developmental disabilities profile.

(4) Following assignment of a funding range, an individual service plan that assures the individual's health and welfare shall be reviewed, revised, or developed with the individual. The service and support administrator shall ensure that individuals share services to whatever extent practical and with the agreement of the team. Paid services should be used in conjunction with available natural supports. The service and support administrator shall ensure that development or revision of the individual service plan addresses the availability of natural supports that currently exist or could be developed to meet assessed needs, including:

(a) Supports that family members provide including, but not limited to, basic personal care, performing health care activities, transportation, attending family/social/recreational activities, laundry, meal preparation, and grocery shopping; and

(b) Supports that friends, neighbors, and others in the community provide.

(5) The county board shall apply rates for the units of each waiver service, other than adult day support, career planning, group employment support, individual employment support, non-medical transportation, ~~supported employment-community, supported employment-enclave, and~~ vocational habilitation, and waiver nursing services, resulting from completion of the individual service plan development process to calculate the individual funding level.

(6) The county board shall determine whether the individual funding level is within, exceeds, or is below the assigned funding range for the individual. The service and support administrator shall inform the individual of this determination in accordance with procedures developed by the department.

(7) When an individual service plan is revised and a new funding level is determined, the providers of waiver services to the individual shall verify to the county board the number of units of each waiver service delivered during the individual's current waiver eligibility span so that the county board may accurately calculate the number of units of services available for the

individual's use during the remainder of the waiver eligibility span.

(8) The county board shall complete the cost projection and payment authorization and the service and support administrator shall ensure waiver services are initiated for an individual whose funding level is within the funding range determined by the Ohio developmental disabilities profile. The service and support administrator shall inform the individual in writing and in a form and manner the individual can understand of the individual's due process rights and responsibilities as set forth in section 5160.31 of the Revised Code.

(9) When the individual funding level exceeds the assigned funding range:

(a) The county board shall inform the individual of the individual's right to request prior authorization to obtain services that result in an individual funding level that exceeds the funding range using the process described in rule 5123:2-9-07 of the Administrative Code.

(b) If, through the prior authorization process, the request for the funding level is approved, the county board shall ensure the cost projection and payment authorization is completed and waiver services are initiated.

(c) If, through the prior authorization process, the request for the funding level is denied, the service and support administrator shall continue the individual service plan development process to determine if an individual service plan that assures the individual's health and welfare can be developed within the individual's funding range.

(i) If an individual service plan that meets these conditions is developed, the county board shall ensure the cost projection and payment authorization is completed and waiver services are initiated.

(ii) If an individual service plan that meets these conditions cannot be developed, the county board shall propose to deny the individual's initial or continuing enrollment in the waiver and inform the individual of the individual's due process rights and responsibilities as set forth in section 5160.31 of the Revised Code.

(10) The department shall use the twelve-month period following either an individual's initial enrollment date or a subsequent eligibility re-determination date to verify that cumulative payments made for waiver services remain

within the approved funding range for each individual or that cumulative payments made for waiver services remain within the approved funding range when prior authorization has been granted.

(11) The department shall periodically re-examine the scoring of the Ohio developmental disabilities profile and the linkage of the scores to the funding ranges.

(D) Payment limitations under the level one waiver

(1) Under the level one waiver, payment for community respite, homemaker/personal care, informal respite, money management, residential respite, and transportation, alone or in combination, shall not exceed five thousand three hundred twenty-five dollars per waiver eligibility span.

(2) Under the level one waiver, payment for environmental accessibility adaptations, home-delivered meals, personal emergency response systems, remote monitoring, remote monitoring equipment, and specialized medical equipment and supplies, alone or in combination, shall not exceed seven thousand five hundred dollars within a three-year period.

(3) In accordance with rule 5123:2-9-27 of the Administrative Code, payment for emergency assistance under the level one waiver shall not exceed eight thousand five hundred twenty dollars within a three-year period.

(E) Changes to individual funding levels and funding ranges

(1) The individual funding level may increase or decrease based on the outcome of the individual service plan development process. In no instance shall the individual funding level exceed the cost cap approved for the waiver in which the individual is enrolled. The county board has the authority and responsibility to make changes to individual funding levels which result from the individual service plan development process in accordance with paragraph (C) of this rule. Changes to individual funding levels are subject to review by the department.

(2) A funding range established for an individual shall change only when changes in assessment variable scores on the Ohio developmental disabilities profile justify assignment of a new funding range. Any or all Ohio developmental disabilities profile variables may be revised at any time at the request of the individual or at the discretion of the service and support administrator, with the individual's knowledge.

(3) Neither the department nor the county board shall recommend a change in individual funding level within the funding range or assign a new funding range after notification that the individual has requested a hearing pursuant to section 5160.31 of the Revised Code concerning the approval, denial, reduction, or termination of services.

(F) Staffing ratios

(1) In situations where more than one staff member serves more than one individual simultaneously, the individuals' needs and circumstances shall determine staffing ratios, based on a unit of one staff to the portion of the total group that includes the individual. Only when it is impractical to determine staff ratios based on a unit of one staff, the provider shall, as authorized in the individual service plan, use the applicable service codes and payment rates established in service-specific rules in Chapter 5123:2-9 of the Administrative Code to indicate both staff size and group size.

(2) Staffing ratios do not change at times when one or more individuals, for whom the staff is responsible, are not physically present, but are within verbal, visual, or technological supervision of the staff providing the service. Technological supervision includes staff contact with individuals through telecommunication and/or electronic signaling devices.

(G) Projection of the cost of an individual's services

(1) Prior to the beginning of an individual's waiver eligibility span, the individual's service and support administrator or other county board designee shall prepare a projection of the annual cost of every individual options or level one waiver service that is authorized in the individual service plan for the waiver eligibility span using the cost projection tool.

(2) The cost projection shall be based on staffing ratios and the total estimated number of service units the individual is expected to receive in accordance with his or her individual service plan during the waiver eligibility span. Staffing ratios contained in the cost projection tool shall be considered a part of the individual service plan.

(3) The total number of service units shall be determined with input from the individual and his or her team as part of the individual service plan development process.

(4) The cost projection tool shall project the cost of services based on the payment

rates established in service-specific rules in Chapter 5123:2-9 of the Administrative Code.

(5) Rule 5123:2-9-31 of the Administrative Code shall govern the circumstances when an individual receives the homemaker/personal care daily billing unit.

(6) The cost projection tool shall be used to project costs based on medicaid payment rates for individuals, regardless of funding source, who share services with individuals enrolled in home and community-based services waivers.

(7) The individual's provider shall have access to the cost projection tool including, but not limited to, the detail and summary information. At the request of the individual, other persons shall have access to the detail and summary information in the cost projection tool.

(8) When changes occur that the team determines affect the ~~total estimated direct service hours~~ <u>service authorization</u>, the county board shall enter changes to the cost projection tool <u>within ten calendar days of a recommendation from the team to change the service authorization</u>. These changes shall be made along with any necessary revisions to the individual service plan, daily rate application, ~~cost projection and payment authorization,~~ and prior authorization request (as applicable) for the individual or individuals affected by the changes.

(9) County boards shall complete a cost projection using the cost projection tool when an individual is initially enrolled in an individual options or level one waiver and when an individual is annually re-determined eligible for continued enrollment in an individual options or level one waiver. The cost projection tool shall be the only authorized cost projection instrument.

(H) Service documentation

(1) Providers shall maintain service documentation in accordance with this rule and service-specific rules in Chapter 5123:2-9 of the Administrative Code.

(2) Invoices a provider submits to the department for payment for services delivered shall not be considered service documentation. Any information contained in the submitted invoice may not and shall not be substituted for any required service documentation information that a provider is required to maintain to validate payment for medicaid services.

(3) Each provider shall maintain all service documentation in an accessible location. The service documentation shall be made available upon request for review by the department, the Ohio department of medicaid, the centers for medicare and medicaid services, a county board or regional council of governments that submits to the department payment authorization for the service, and those designated or assigned authority by the department or the Ohio department of medicaid to review service documentation.

(4) When a provider discontinues operations, the provider shall, within seven calendar days, notify the county boards for the counties in which individuals for whom the provider has provided services reside, of the location where the service documentation will be stored, and provide the county board with the name and telephone number of the person responsible for maintaining the service documentation.

(I) Payment for waiver services

(1) Providers shall be paid the lesser of their usual and customary rate or the payment rate for each waiver service that is delivered. The department shall establish a mechanism through which providers shall communicate their usual and customary rates to the department. A single provider may charge different usual and customary rates for the same service when the service is provided in different geographic areas of the state. In this instance, the usual and customary rates charged shall be declared for each cost-of-doing-business category contained in appendix B to this rule that identifies the counties in which the provider intends to provide specific services. Upon notification of a provider's usual and customary rate or change in usual and customary rate, the department shall provide notice to the appropriate county board.

(2) The billing units, service codes, and payment rates for waiver services are contained in service-specific rules in Chapter 5123:2-9 of the Administrative Code including, but not limited to:

(a) 5123:2-9-13 (career planning under the individual options and level one waivers);

~~(a)~~(b) 5123:2-9-14 (vocational habilitation under the individual options and level one waivers);

~~(b)~~(c) 5123:2-9-15 (~~supported employment-community~~ individual employment support under the individual options and level one waivers);

~~(c)~~(d) 5123:2-9-16 (~~supported employment-enclave~~ group employment support under the individual options and level one waivers);

~~(d)~~(e) 5123:2-9-17 (adult day support under the individual options and level one waivers);

~~(e)~~(f) 5123:2-9-18 (non-medical transportation under the individual options and level one waivers);

(g) 5123:2-9-20 (money management under the individual options and level one waivers);

~~(f)~~(h) 5123:2-9-21 (informal respite under the level one waiver);

~~(g)~~(i) 5123:2-9-22 (community respite under the individual options and level one waivers);

~~(h)~~(j) 5123:2-9-23 (environmental accessibility adaptations under the individual options and level one waivers);

~~(i)~~(k) 5123:2-9-24 (transportation under the individual options and level one waivers);

~~(j)~~(l) 5123:2-9-25 (specialized medical equipment and supplies under the individual options and level one waivers);

~~(k)~~(m) 5123:2-9-26 (personal emergency response systems under the level one waiver);

~~(l)~~(n) 5123:2-9-27 (emergency assistance under the level one waiver);

~~(m)~~(o) 5123:2-9-28 (nutrition services under the individual options waiver);

~~(n)~~(p) 5123:2-9-29 (home-delivered meals under the individual options and level one waivers);

~~(o)~~(q) 5123:2-9-30 (homemaker/personal care under the individual options and level one waivers);

~~(p)~~(r) 5123:2-9-31 (homemaker/personal care daily billing unit under the

individual options waiver);

~~(q)~~(s) 5123:2-9-32 (adult family living under the individual options waiver);

~~(r)~~(t) 5123:2-9-33 (adult foster care under the individual options waiver);

~~(s)~~(u) 5123:2-9-34 (residential respite under the individual options and level one waivers);

~~(t)~~(v) 5123:2-9-35 (remote monitoring and remote monitoring equipment under the individual options and level one waivers);

~~(u)~~(w) 5123:2-9-36 (interpreter services under the individual options waiver); ~~and~~

~~(v)~~(x) 5123:2-9-38 (social work under the individual options waiver)~~.~~; and

(y) 5123:2-9-39 (waiver nursing services under the individual options waiver).

(3) The department shall periodically collect payment information for a comprehensive, statistically valid sample of individuals from providers of home and community-based services at the time the information is collected. Based upon the department's review of the information, the department shall recommend to the Ohio department of medicaid any changes necessary to assure that the payment rates are sufficient to enlist enough waiver providers so that waiver services are readily available to individuals, to the extent that these types of services are available to the general population, and that provider payment is consistent with efficiency, economy, and quality of care.

(4) Payment for home and community-based services constitutes payment in full. Payment shall be made for home and community-based services when:

(a) The service is identified in an approved individual service plan;

(b) The service is recommended for payment through the cost projection and payment authorization process; and

(c) The service is provided by a provider selected by an individual enrolled in the waiver.

(5) Payment for waiver services shall not exceed amounts authorized through the cost projection and payment authorization for the individual's corresponding waiver eligibility span.

(J) Claims for payment for home and community-based services

(1) When home and community-based services are also available on the medicaid state plan, state plan services shall be billed first. Only home and community-based services in excess of those covered under the medicaid state plan shall be authorized.

(2) Claims for payment for home and community-based services shall be submitted to the department in the format prescribed by the department. The department shall inform county boards of the billing information submitted by providers in a manner and at a frequency necessary to assist county boards to manage the waiver expenditures being authorized.

(3) Claims for payment shall be submitted within three hundred fifty calendar days after the home and community-based services are provided. Payment shall be made in accordance with the requirements of rule 5160-1-19 of the Administrative Code. Claims for payment shall include the number of units of service.

(4) All providers of home and community-based services shall take reasonable measures to identify any third-party health care coverage available to the individual and file a claim with that third party in accordance with the requirements of rule 5160-1-08 of the Administrative Code.

(5) For individuals with a monthly patient liability for the cost of home and community-based services, as defined in rule ~~5160:1-3-24~~ <u>5160:1-3-04.3</u> of the Administrative Code, and determined by the county department of job and family services for the county in which the individual resides, payment is available only for the home and community-based services delivered to the individual that exceed the amount of the individual's monthly patient liability. Verification that patient liability has been satisfied shall be accomplished as follows:

(a) The department shall, on a monthly basis, provide notification to the appropriate county board identifying each individual who has a patient liability for home and community-based services and the monthly amount of the patient liability.

(b) The department shall determine the home and community-based services to which each individual's patient liability shall be applied and assign the corresponding monthly patient liability amount to the home and community-based services provider that provides the preponderance of home and community-based services. The county board shall notify each individual and home and community-based services provider, in writing, of this assignment.

(c) Upon submission of a claim for payment, the designated home and community-based services provider shall report the home and community-based services to which the patient liability was assigned and the applicable patient liability amount on the claim for payment using the format prescribed by the department.

(6) The department, the Ohio department of medicaid, the centers for medicare and medicaid services, and/or the auditor of state may audit any funds a provider of home and community-based services receives pursuant to this rule, including any source documentation supporting the claiming and/or receipt of such funds.

(7) Overpayments, duplicate payments, payments for services not rendered, payments for which there is no documentation of services delivered or for which the documentation does not include all of the items required in service-specific rules in Chapter 5123:2-9 of the Administrative Code, or payments for services not in accordance with an approved individual service plan are recoverable by the department, the Ohio department of medicaid, the auditor of state, or the office of the attorney general. All recoverable amounts are subject to the application of interest in accordance with ~~rules 5160-1-25 and 5101:6-51-03 of the Administrative Code, as applicable~~ rule 5160-1-25 of the Administrative Code.

(8) Providers of home and community-based services shall maintain the records necessary and in such form to disclose fully the extent of home and community-based services provided, for a period of six years from the date of receipt of payment or until an initiated audit is resolved, whichever is longer. The records shall be made available upon request to the department, the Ohio department of medicaid, the centers for medicare and medicaid services, and/or the auditor of state. Providers who fail to produce the records requested within thirty calendar days following the request shall be subject to decertification and/or loss of their medicaid provider agreement.

(K) Due process rights and responsibilities

(1) Applicants for and recipients of waiver services administered by the department may use the process set forth in section 5160.31 of the Revised Code and rules implementing that statute for any purpose authorized by that statute. The process set forth in section 5160.31 of the Revised Code is available only to applicants, recipients, and their lawfully appointed authorized representatives. Providers shall have no standing in an appeal under that section.

(2) Applicants for and recipients of waiver services administered by the department shall use the process set forth in section 5160.31 of the Revised Code and rules implementing that statute for any challenge related to the administration and/or scoring of the Ohio developmental disabilities profile or to the type, amount, level, scope, or duration of services included in or excluded from an individual service plan or behavioral support strategy. A change in staff to waiver recipient service ratios does not necessarily result in a change in the level of services received by an individual.

(L) Ohio department of medicaid authority

The Ohio department of medicaid retains final authority to establish funding ranges for waiver services; to establish payment rates for waiver services; to review and approve each service identified in an individual service plan that is funded through a home and community-based services waiver; and to authorize the provision of and payment for waiver services through the cost projection and payment authorization.

Effective: 04/01/2017

Five Year Review (FYR) Dates: 01/01/2021

CERTIFIED ELECTRONICALLY

Certification

03/10/2017

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5123:2-9-11 **Home and community-based services waivers - free choice of providers.**

(A) Purpose

The purpose of this rule is to establish the responsibilities of a county board of developmental disabilities for assuring an individual's right to obtain home and community-based services from any qualified and willing provider in accordance with 42 C.F.R. 431.51 as in effect on the effective date of this rule and sections 5123.044 and 5126.046 of the Revised Code.

(B) Definitions

(1) "Adult day support" has the same meaning as in rule 5123:2-9-17 of the Administrative Code.

(2) "Agency provider" means an entity that employs persons for the purpose of providing services for which the entity must be certified under rules adopted by the department.

(3) "County board" means a county board of developmental disabilities.

(4) "Department" means the Ohio department of developmental disabilities.

(5) "Home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.

(6) "Homemaker/personal care" has the same meaning as in rule 5123:2-9-30 of the Administrative Code.

(7) "Independent provider" means a self-employed person who provides services for which he or she must be certified under rules adopted by the department and who does not employ, either directly or through contract, anyone else to provide the services.

(8) "Individual" means a person with a developmental disability or for purposes of giving, refusing to give, or withdrawing consent for services, his or her guardian in accordance with section 5126.043 of the Revised Code or other person authorized to give consent.

(9) "Integrated employment" has the same meaning as in rule 5123:2-9-44 of the Administrative Code.

(10) "Non-medical transportation" has the same meaning as in rule 5123:2-9-18 of the Administrative Code.

(11) "Service and support administrator" means a person, regardless of title, employed by or under contract with a county board to perform the functions

of service and support administration and who holds the appropriate certification in accordance with rule 5123:2-5-02 of the Administrative Code.

(12) "Supported employment-community" has the same meaning as in rule 5123:2-9-15 of the Administrative Code.

(13) "Supported employment-enclave" has the same meaning as in rule 5123:2-9-16 of the Administrative Code.

(14) "Vocational habilitation" has the same meaning as in rule 5123:2-9-14 of the Administrative Code.

(C) Notification of free choice of providers, assistance with the provider selection process, and procedural safeguards

(1) The county board shall notify each individual at the time of enrollment in a home and community-based services waiver and at least annually thereafter, of the individual's right to choose any qualified and willing provider of home and community-based services. The notification shall specify that:

(a) The individual may choose agency providers, independent providers, or a combination of agency providers and independent providers;

(b) The individual may choose providers from all qualified and willing providers available statewide and is not limited to those currently providing services in a given county;

(c) The individual may choose to receive services from a different provider at any time;

(d) An individual choosing to receive homemaker/personal care in a licensed residential facility is choosing both the place of residence and the homemaker/personal care provider, but maintains free choice of providers for all other home and community-based services and the right to move to another setting at any time if a new homemaker/personal care provider is desired; and

(e) The service and support administrator will assist the individual with the provider selection process if the individual requests assistance.

(2) A service and support administrator shall assist an individual enrolled in a home and community-based services waiver with one or more of the following, as requested by the individual:

(a) Accessing the department's website to conduct a search for qualified and willing providers;

(b) Providing the individual with the department's guide to interviewing prospective providers;

(c) Sharing objective information with the individual about providers that includes reports of provider compliance reviews conducted in accordance with section 5123.162 or 5123.19 of the Revised Code, approved plans of correction submitted by providers in response to compliance reviews, number of individuals currently served, and any information about services offered by the provider to meet the unique needs of a specific group of individuals such as aging adults, children with autism, or individuals with intense medical or behavioral needs;

(d) Utilizing the statewide, uniform format to create a profile that shall include the type of services and supports the individual requires, hours of services and supports required, the individual's essential service preferences, the funding source of services, and any other information the individual chooses to share with prospective providers;

(e) Making available to all qualified providers in the county that have expressed an interest in serving additional individuals, the individual-specific profile created in accordance with paragraph (C)(2)(d) of this rule to identify willing providers of the service;

(f) Contacting providers on the individual's behalf;

(g) Developing provider interview questions that reflect the characteristics of the individual's preferred provider; and

(h) Scheduling and participating as needed in interviews of prospective providers. If the individual chooses to interview the county board as a prospective provider, the service and support administrator shall disclose to the individual that the service and support administrator is employed by the same agency. The service and support administrator may participate in this interview as directed by the individual.

(3) The county board shall document the alternative home and community-based services settings that were considered by each individual and ensure that each individual service plan reflects the setting options chosen by the individual.

(4) The county board shall document that each individual has been offered free choice among all qualified and willing providers of home and community-based services.

(5) If a county board receives a complaint from an individual regarding the free choice of provider process, the county board shall respond to the individual within thirty days and provide the department with a copy of the individual's

complaint and the county board's response. The department shall review the complaint and the county board's response and take actions it determines necessary to ensure that each individual has been afforded free choice among all qualified and willing providers of home and community-based services.

(D) Additional requirements that apply when a county board provides home and community-based services

So long as a county board is a provider of home and community-based services, the county board shall:

(1) Ensure administrative separation between county board staff doing assessments and service planning and county board staff delivering direct services.

(2) Establish and implement annual benchmarks for recruitment of sufficient providers of adult day support, integrated employment, non-medical transportation, supported employment-community, supported employment-enclave, and vocational habilitation. Benchmarks are subject to approval by the department. The county board shall report progress on achieving benchmarks to the department twice per year in accordance with the schedule and format established by the department.

(3) Establish and implement annual benchmarks for reducing the number of individuals for whom the county board provides adult day support, integrated employment, non-medical transportation, supported employment-community, supported employment-enclave, and vocational habilitation. Benchmarks are subject to approval by the department. The county board shall report progress on achieving benchmarks to the department twice per year in accordance with the schedule and format established by the department.

(E) Commencement of services

The county board shall adopt written procedures to ensure that home and community-based services begin in accordance with the date established in the individual service plan. The procedures shall include a requirement for the county board to monitor the service commencement process and implement corrective measures if services do not begin as indicated.

(F) Department training and oversight

(1) The department shall periodically provide training and assistance to familiarize county boards and individuals with the rights and responsibilities set forth in this rule.

(2) The department shall investigate or cause an investigation when an individual alleges that he or she is being denied free choice of providers for home and community-based services.

(3) The department shall utilize the accreditation process in accordance with rule 5123:2-1-02 of the Administrative Code to monitor county board compliance with requirements of this rule.

(G) Due process and appeal rights

(1) Any recipient of or applicant for home and community-based services may utilize the process set forth in section 5101.35 of the Revised Code, in accordance with division 5101:6 of the Administrative Code, for any purpose authorized by that statute and the rules implementing the statute, including being denied the choice of a provider who is qualified and willing to provide home and community-based services. The process set forth in section 5101.35 of the Revised Code is available only to applicants, recipients, and their lawfully authorized representatives.

(2) Providers shall not utilize or attempt to utilize the process set forth in section 5101.35 of the Revised Code. Providers shall not appeal or pursue any other legal challenge to a decision resulting from the process set forth in section 5101.35 of the Revised Code.

(3) The county board shall inform the individual, in writing and in a manner the individual can understand, of the individual's right to request a hearing in accordance with division 5101:6 of the Administrative Code.

(4) The county board shall immediately implement any final state hearing decision or administrative appeal decision relative to free choice of providers for home and community-based services issued by the Ohio department of medicaid, unless a court of competent jurisdiction modifies such a decision as the result of an appeal by the medicaid applicant or recipient.

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INDEPENDENT PROVIDER ROLE & RESPONSIBILITIES

What is an Independent Provider?

An independent provider is a self-employed person who provides services to individuals with developmental disabilities.

- Independent providers must be certified by the Ohio Department of Developmental Disabilities.
- Independent providers must provide those services directly; they cannot employ someone else to provide services on their behalf.
- Only those services authorized by an SSA prior to the provision of services are eligible for payment.

Expectations of Independent Providers

- Ensure the Health, Safety, and Welfare of the individual and provide services as indicated in the person's ***My Plan and My Plan Assessment*** which includes:
  - Knowing the person, their medication, their health and care needs,
  - Understanding the person's communication needs,
  - Knowing the person's other support needs including physical accommodations
  - Reading and understanding everything that is in the person's *My Plan and My Plan Assessment.* The provider must know what s/he is responsible for from both.

- Treat individuals with compassion, dignity, and respect at all times.

- Know and support the rights of individuals at all times.

- Anticipate, identify, and make active efforts to prevent health, safety and welfare risks of individuals. This may include:
  - Communicating with the individual's SSA any concerns or new developments/information.
  - Preventive action and notifications about behaviors and/or incidents
  - Filing UI and MUI reports as required in rule

- Keep information about your contact information up to date. Ensure all changes in that information are updated with HCDDS at all times.

- Ethically transition individuals to other providers when a new provider is selected: http://dodd.ohio.gov/HealthandSafety/Documents/Health and Welfare Alert 44-9-15-Transitions.pdf

- Ensure community integration as much as possible for/with individuals with disabilities such that they are not only active in their communities but engaging with the community to the extent that relationships emerge.

- Keeping timely, accurate service documentation sufficient to support all billed services. Providers are responsible for knowing what must be documented. EVERY service has a list of required documentation elements, these rules can be found on the Ohio Department of Developmental Disabilities website: http://dodd.ohio.gov/RulesLaws/Pages/RulesInEffect.aspx .

  Failure to have the proper documentation for billed services and/or billing for services not provided is Medicaid fraud.